

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3761, 3765, 3766, 3768, 3770, 3773,
3776, 3778, 3779, 3780, 3781, 3782, 3784, 3786, 3787,
3788, 3789, 3790, 3792, 3794, 3800, 3802, 3805, 3806,
3808, 3811, 3812, 3813, 3815, 3825, 3827, 3829, 3830,
3832 and 3833 of 1997.

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

HEIRS OF DECEASED KALU HARI

Appearance:

MR CC BHALJA, AGP, for Appellants in all the appeals
MR DF AMIN for Respondent in F.A. No.3830/97
None present for Respondents in other appeals.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 12/10/98

ORAL JUDGEMENT

1. In F.A. No.3761/97, I find that out of two respondents, respondent No.1/1 has been served and notice

of respondent No.1/2 has not been received back. In F.A. NO.3784/97, the respondent No.1 has been served but the respondent No.2 has expired. For bringing on record, the heirs and legal representatives of respondent No.2, the appellants filed civil application No.9744/98. In F.A. No.3786/97, the respondent has expired and to bring his heirs and legal representatives on record, civil application No.9745/98 has been filed. In F.A. No.3773/97, the respondent has expired and for bringing his heirs and legal representatives on record, civil application No.9743/98 has been filed.

2. As all these appeals have arisen from common land acquisition notification published under section 4 of the Land Acquisition Act, 1894 and common awards have been passed by L.A.O. and the Reference Court, I consider it to be appropriate to take up the hearing of these appeals together and to dispose of the same on merits by a common order. I do not consider it to be appropriate to defer the hearing of the aforesaid three appeals only on the ground that some of the respondents have not been served or the respondents have expired, as the case may be, therein. There is yet another reason for not deferring the hearing of these appeals on the ground aforesaid for the reason that otherwise I do not find any merits in these appeals and these appeals deserve to be dismissed. So otherwise also, it is not necessary to grant the civil applications and to defer the hearing of these three appeals.

3. These appeals have been filed by the State of Gujarat against the award dated 31-1-1997 of the 2nd Extra Assistant Judge, Panchmahals at Godhra in Land Reference Case No.414/92 and cognate matters in which by a common order number of land reference cases have been decided.

4. The facts of the case, in brief, are that the lands of claimants-respondents are situated in village Agarwada, Tal. Godhra, District Panchmahals. These lands were acquired for Panam Project. Notification under section 4 of the Act, 1894 was published on 22-4-1976. The L.A.O. passed the award but the compensation awarded therein was considered to be towards the lower side by the claimants-respondents and on their request, the L.A.O. made reference of the cases to the civil court and the civil court (Reference Court) under the impugned award awarded compensation to the claimants-respondents at the rate of Rs.4500/- per Acre for kyari land, Rs.3000/- per Acre for jirayat land, Rs.500/- per Acre for kharaba land. Hence, these appeals

before this Court.

Heard the learned counsel for the parties.

5. From the impugned award, I find that on behalf of the claimants-respondents one Chaturbhai Jesingbhai was examined at Ex.18. On behalf of claimants-respondents, documentary evidence vide Ex.12 to 17 has also been produced. Ex.13 to 16 are the copies of judgments of L.A.R. No.243/90, 512/86, 82/85 and 3/79 of the Civil Court. Ex.17 is a copy of the sale deed produced of comparable land. It was the contention of the claimants-respondents before the Reference Court that the lands which were acquired and which were subject matter of the previous awards in L.A.R. No.243/90, 512/86, 82/85 and 3/79 are of the same nature as the lands which are subject matter of present acquisition. They prayed for grant of compensation for acquisition of their lands as per the judgments produced vide Ex.13 to 16. Ex.13 to 16 relates to the land acquisition compensation cases of the lands acquired of Villages, Makher, Gajipur, Bhuvar, Metral and under the judgments Ex.13 to 16 the Reference Court has awarded the compensation at the rate of Rs.4500/- per Acre for kyari land, Rs.3000/- per Acre for jirayat land and Rs.500/- per Acre for kharaba land. In L.A.R. No.243/90, land of Makher village was acquired vide notification dated 30-4-1976. In L.A.R. No.512/86, land of Gajipur was acquired by notification dated 19-7-1973. Under L.A.R. No.82/85, land of village Bhuvar was acquired by notification dated 19-12-1974 and in L.A.R. No.3/79, land of Metral was acquired by notification dated 1-1-1976.

6. Learned counsel for the respondent in one of the appeals submitted that the State of Gujarat preferred appeals against the judgments of the Reference Court in L.A.R. No.82/85 and 3/79 and those have been dismissed. Learned counsel for the appellants does not dispute this factual position as stated by the learned counsel for the respondent. It has next been contended by the learned counsel for the respondent in one of the appeals that against the judgment of the Reference Court in L.A.R. No.243/90, the appeals were preferred before this Court by the State of Gujarat and the same came to be dismissed on 22-1-1997. Zerox copy of the judgment of this Court aforesaid has been produced for the perusal of the Court by the learned counsel for the respondent. This factual aspect has also not been disputed by the learned counsel for the appellants. So far as the L.A.R. No.512/86 is concerned, it is not the case of the learned counsel for the appellants that any appeal has been filed against the

judgment by the State Government before this Court.

7. From the impugned judgment of the Reference Court, I find that the claimants-respondents made a statement before the Reference Court that the Government has not preferred any appeal against the decision given in L.A.R. No.512/86 by the Civil Court. This observation made by the Reference court in the impugned judgment has not been controverted by the learned counsel for the appellants. So the resultant position from the aforesaid discussion is that the appeals filed against the judgment given in L.A.R. No.3/79, 82/85 and 243/90 by the State of Gujarat before this Court have been dismissed and those judgments attained the finality. So far as the decision in L.A.R. No.512/86 is concerned, the State of Gujarat has not filed any appeal against that judgment and this judgment has also attained the finality.

8. It is true that the Reference Court has not made reference to other aspect of the matter i.e. the similarity of the lands which were subject matter of previous awards and subject matter of present Reference, the fertility of those lands as well as the proximity of distance. Only on this ground, it is difficult to set aside that judgment and remand the matter back to the Reference Court. Learned counsel for the appellants though raised a technical point but on substance has failed to satisfy this Court how these awards i.e. as many as four awards, which relate to the acquisition of lands in the years 1974 to 1976 are not comparable awards and on which the reliance could not have been placed for the purpose of determining what should be the just, adequate and proper compensation to be awarded in these cases to the claimants-respondents. Not only this, but during the course of arguments, learned counsel for the appellants has failed to point out or highlight any thing in support of his contention. Even from the memo of appeals, I do not find anything substantial emerges therefrom which makes out a case that the awards on which reliance has been placed by the Reference Court to give the decision in these matters were not comparable awards. This Court cannot lose the sight of fact that the Reference Court had before it all the documentary evidence as well as the oral statement produced by the claimants-respondents. From the judgment of the Reference Court, I do not find that any oral or documentary evidence has been produced from the side of the appellants. It is not the case of the appellants before this Court also that they produced any oral or documentary evidence in this Court. The Reference Court

had all the documentary and oral evidence produced by the claimants before it and only after considering these documents it has passed this award. It has recorded a finding of fact that these are comparable awards, which can be relied upon for awarding compensation to the claimants-respondents in these cases. Unless something extraordinary is pointed out by reference to the documents on which the reliance has been placed and further by showing any evidence produced by the appellants, learned counsel for the appellants is unable to make out a case that these were not comparable awards. Only on this technical contention raised, without producing any supporting material, no interference can be made in the award impugned in these appeals. I do not find any illegality in the award, which calls for interference of this Court.

9. In the result, all these appeals fail and the same are dismissed with no order as to costs.

zgs/-